

REMARKS

This paper is being submitted following Applicant's recent discovery of an error in the amino acid sequence of WLBU-4, as it appears in Table 1, Figure 2, and the Sequence Listing, and the omission of the LLP-1 amino acid sequence from the Sequence Listing. Applicants respectfully request entry of the amendments and remarks presented herein under 37 C.F.R. § 1.312.

Claims 1-27 are pending in the instant application. These claims are unaffected by this Amendment and will remain pending upon entry of this Amendment.

Applicants have amended paragraph [0009] of the specification including Table 1. Support for the amendment to the sequence identifiers may be found in the application as filed at, for example, Table 1 and paragraph [0025]. Support for the amendment to the sequence of WLBU-4 may be found in the application as filed at, for example, Figure 2 (helical wheel diagram). Therefore, these amendments do not constitute new matter.

Applicants have enclosed herewith 12 sheets of Formal Drawings. Support for the Formal Drawings may be found in the application as filed, for example, in the informal drawings filed February 16, 2001. In compliance with 37 C.F.R. § 1.121(d), the header of each sheet bears the caption "Replacement Sheet." Applicants have also included the application serial number in the header for identification purposes.

Applicants have also enclosed a Substitute Sequence Listing in paper and computer readable form. The Substitute Sequence Listing corrects a typographic error in the sequence of SEQ ID NO:12 and adds SEQ ID NO:13. The error in SEQ ID NO:12 is discussed below. The addition of SEQ ID NO:13 is necessitated and supported by the sequence of LLP-1 presented in Figure 1 of the application as filed.

I hereby state that the content of the paper and computer readable copies of the Substitute Sequence Listing submitted herewith in accordance with 37 C.F.R. § 1.821(c) and (e) are the same. I hereby state that the content of the paper and computer readable copies of the Substitute Sequence Listing submitted herewith in accordance with 37 C.F.R. § 1.821(g) do not include new matter.

Applicants have discovered that, although the helical wheel diagram of WLBU-4 shown in Figure 2 correctly depicts the carboxy-terminal residues of this peptide as V⁴⁶-R⁴⁷-R⁴⁸, the corresponding amino acid sequence provided in the figure incorrectly identifies these residues as R⁴⁶-V⁴⁷-V⁴⁸. Upon carefully reviewing the entire application, it was discovered that this error also exists in the description (Table 1) and the sequence listing.

Therefore, Applicants have herein requested entry of amendments to the specification, Figure 2, and Sequence Listing. Support for these amendments may be found in the specification as filed, for example, at Figure 2. Therefore, these amendments do not include any new matter.

It has also been discovered that the Sequence Listing filed on February 16, 2001 inadvertently omitted the sequence of LLP-1 depicted in Figure 1. Applicants, therefore, have requested entry of a Substitute Sequence Listing in which the amino acid sequence of LLP-1 is SEQ ID NO:13.

The Manual of Patent Examination Procedure § 714.16 provides that an amendment to the disclosure must be accompanied by a statement that fully and clearly states the reasons on which reliance is placed to show:

(A) why the amendment is needed;

(B) why the proposed amended or new claims require no additional search or examination;

(C) why the claims are patentable; and

(D) why they were not presented earlier.

Accordingly, Applicants hereby make the following statements.

(A) Why the Amendment Is Needed

The requested amendments are necessary to ensure that the instant disclosure clearly and consistently teaches the public how to make and use the antimicrobial peptide WLBU-4 (SEQ ID NO:12). While SEQ ID NO:13 is not recited in any pending claims, its addition to the Sequence Listing is necessary to ensure that this sequence is presented in a standard format and, therefore, available for future searching.

(B) Why the Amendments Require No Additional Search or Examination;

Since SEQ ID NOS:12 and 13 are not claimed in the instant application, entry of this amendment will not militate any additional search or examination. Moreover, Applicants have asserted that the instant amendments do not introduce new matter. Support for the amendment to SEQ ID NO:12 may be found in the application as filed, for example, in the helical wheel shown in Figure 2. Support for the amendment to SEQ ID NO:13 may be found in the application as filed, for example, in the helical wheel shown in Figure 1.

(C) Why the Claims Are Patentable

Since the requested amendments do affect the scope or subject matter of claims 1-27 and since the existing prosecution history amply demonstrates why claims 1-27 are patentable, Applicants do not believe that any further showing is required.

(D) Why the Amendments Were Not Presented Earlier.

In response to a Notice of Patent Draftsperson's Patent Drawing Review (Form PTO-948) dated November 21, 2003 that was attached to the Notice of Allowance and in preparation for payment of the Issue Fee, Applicants enlisted the services of a professional draftsman to prepare formal drawings of all of the figures. Only upon reviewing a draft of these formal drawings, was it discovered that Figure 2 contained a typographical error and that Figure 1 contained a sequence not present in the Sequence Listing. Thus, the instant amendments were not presented earlier because they correct minor errors that had gone unnoticed previously.

In closing, Applicants believe that the requested amendments are necessary for proper disclosure of the invention. In addition, since the instant Amendment neither introduces new matter nor raises any new question of patentability, Applicants believe that its entry will not require a substantial amount of work on the part of the Patent and Trademark Office. Applicants, therefore, respectfully request entry of the instant Amendment.

Applicants do not believe that any fees are required with this paper. Nevertheless, the Commissioner is hereby authorized to charge any fees occasioned by this submission not otherwise enclosed herewith to Deposit Account No. 02-4377. Please credit any overpayment of fees associated with this filing to the above-identified deposit account. A duplicate of this page is enclosed.

Respectfully submitted,

BAKER BOTTS, L.L.P.

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A handwritten signature in cursive script, reading "Rochelle K. Seide", written over a horizontal line.

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Enclosures